

**DURHAM, NORTH CAROLINA
MONDAY, AUGUST 18, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Excused Absence: Council Member Edwards.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. Relative to a citizen's request, City Manager Conner asked that Consent Item #36 [Citizen Matter - Sylvester G. Brooks] be heard at the beginning of the meeting. She also requested that GBA Item #20 [Professional Services for Department of Parks & Recreation] be postponed; Consent Item #39 [Phoenix Crossing Loan Refinancing Proposal] be removed from the agenda and GBA Item #41 [Employment and Public Accommodations Ordinance] be removed from the agenda [Item was discussed at the August 18, 2003 Special City Council Meeting at 6:00 p.m.]

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the City Manager's priority items was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

There were no priority items from the City Attorney.

City Clerk Gray informed Council that a valid protest petition was filed against GBA Item #29 [Rezoning Case P02-55 – Belvins Property, Hebron and Danube] and that the protest petition filed against GBA Item #31 [Rezoning Case P03-23 - Strawberry Fields] has been withdrawn.

Council Member Clement thanked the Shodor Foundation for providing resources for a GED program and expressed a concern with mailboxes being moved to the curb.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to authorize Council Member Clement to contact the U S Postal Service to investigate the issue of moving mailboxes to the curb was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items #9[Major Site Plan – Embassy Suites], #17

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[Juvenile Accountability Incentive Block Grant], #36 [Citizen Matter – Sylvester G. Brooks] and #38 [Carolina Theater Construction Procedures] were pulled.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[CONSENT AGENDA]

SUBJECT: CITY COUNCIL MINUTES – CITY CLERK’S OFFICE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve City Council minutes for the following meetings was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

July 24, 2003 - Special Meeting(s)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve City Council action taken at the July 24, 2003 City Council Work Session was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve City Council minutes for the following closed sessions was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

January 9, 2003	October 24, 2002
January 30, 2003	October 7, 2002
February 20, 2003	September 26, 2002
April 21, 2003	July 25, 2002
December 16, 2002	July 9, 2002
November 21, 2002	May 23, 2002
November 7, 2002	

SUBJECT: RECREATION ADVISORY COMMITTEE - APPOINTMENTS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reappoint Shirley Harper and Richard Mentock and to appoint Kim Anglin to the Recreation Advisory Committee with terms expiring August 8, 2006 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and

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Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: ENVIRONMENTAL AFFAIRS BOARD - APPOINTMENTS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reappoint Judy Kincaid to represent the area of Solid Waste and to appoint Darryl Roberts to represent the area of Water Resources to the Environmental Affairs Board with terms expiring June 30, 2006 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: AMENDMENT TO THE POLICY CONCERNING SOLICITATION OF CONTRIBUTIONS BY THE CITY TO PERMIT SOLICITATION BY THE MAYOR'S COMMITTEE FOR PERSONS WITH DISABILITIES

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to amend the Policy Concerning Solicitation of Contributions by the City by inserting the following in the list of authorized solicitations was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Members of the Mayor's Committee for Persons with Disabilities are authorized to solicit contributions for the annual banquet and other activities related to National Disability Employment Awareness Month, provided that the City Manager or the Manager's designee reviews all written solicitation correspondence before it is sent and that the City Manager or the Manager's designee assists in the accounting for all donations.

SUBJECT: CONTRACTS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the following contracts; and

To authorize the City Manager to make changes to contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Contractor	Contract Description	Dept	CT Amount
Tele-Works	Maintenance for Info Line	Public Info	\$ 3,600.00
Verizon Wireless	Tracking devices for 13 vehicles	PW	\$ 7,120.00
Milton Lewis & Associates	Training Workshop	HR	\$ 4,600.00

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Pagemoor Homeowners	Stormwater Maint. & Facility Agree	PW	na
Panther Creek of Durham	Stormwater Maint. & Facility Agree	PW	na
Donn Atkins	Tennis Camp	P&R	\$ 1,000.00
Christopher Hux	Baseball Umpire	P&R	\$ 2,500.00
Gregory Godsil	Baseball Umpire	P&R	\$ 2,500.00
Robert Tomlinson	Baseball Umpire	P&R	\$ 2,500.00
Nathan Tomlinson	Baseball Umpire	P&R	\$ 2,500.00
Marti Smith	Baseball Umpire	P&R	\$ 2,500.00
Ricky Daye	Official	P&R	\$ 1,200.00
Robert Gentry	Facility Attendant	P&R	\$ 3,000.00
Ponce Moody	Official	P&R	\$ 2,500.00
Doug Best	Baseball Umpire	P&R	\$ 2,500.00
Thomas Satterwhite	Baseball Umpire	P&R	\$ 2,500.00

SUBJECT: SETTING THE DATE FOR THE PUBLIC HEARING ON THE FY 2002-2003 DRAFT CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to set the date for the public hearing on the FY 2002-2003 Draft Consolidated Annual Performance and Evaluation Report (CAPER) to be held on September 2, 2003 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: CONTRACT AMENDMENT TO THE ORIGINAL CONTRACT BETWEEN THE CITY OF DURHAM AND LAPPAS + HAVENER FOR THE MASTER PLAN, DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTATION AND CONSTRUCTION ADMINISTRATION FOR RENOVATING LONG MEADOW PARK

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the amendment to the contract for the Long Meadow Park Renovations Project with Lappas + Havener, PA in the amount not to exceed \$119,820; and

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MAJOR SITE PLAN - BB&T BRANCH OFFICE - NORTH ROXBORO STREET (D02-763)

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for "BB&T Branch Office", submitted by TRC Triangle Engineering & Surveying on behalf of Branch Bank & Trust Company, for a bank facility with five drive thru teller lanes on a 1.695 acre site zoned NC, SC and F/J-B. The property is located at the southeast corner of North Roxboro Street and Seven Oaks Road. PIN 0824-04-73-7406 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MAJOR SITE PLAN – EAST MAIN STREET TOWNHOMES (D03-119)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for 43 townhouse apartments and a community center in four three-story buildings, with 87 motor vehicle parking spaces and seven bicycle spaces, on a +/-3.62 acre site zoned RM-20 and DDO-3, with a three-foot variation in the street tree locations along East Main and Elizabeth Streets was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MAJOR SITE PLAN – TRIPLE S RENTALS (D03-244)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for “Triple S Rentals”, submitted by Duane K. Stewart & Associates on behalf of Triple S Rentals, for an outdoor storage yard on a +6.178 acre site zoned I-2 and F/J-B. The property is located at the southeast corner of Camden Avenue and East Club Boulevard - Tax Reference 619-01-007 and PIN 0842-01-27-3940 - City Atlas Page 19, Block A-2 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: RESOLUTION TO AMEND THE DURHAM POLICY CONCERNING SOLICITATION OF CONTRIBUTIONS BY THE CITY – CITY/COUNTY APPEARANCE COMMISSION

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a “Resolution To Amend The Durham Policy Concerning Solicitation Of Contributions By The City” was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9030

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SUBJECT: STOP SIGNS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Willow Creek Circle (Private) at Horton Road, northwest corner; and

Winding Creek Circle (Private) at Sugarwood Place, southwest corner, north intersection; and

Winding Creek Circle (Private) at Sugarwood Place, southwest corner, south intersection; and

Weather Hill Circle (Private) at Sugarwood Place, northeast corner.

Ordinance #12850

**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
2004 APPRENTICE/INTERN PROGRAM**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT for the Apprentice/Intern program; and

To adopt a “City of Durham Grant Project Ordinance – Transportation Apprentice/Intern” in the amount of \$31,701 for the funding of this program was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9026

Ordinance #12851

**SUBJECT: STREET ACCEPTANCE - ARRINGTON, LANDON FARMS -
PHASE 1B, PAGEMORE, GLENNSTONE, CAMBERLEY
SUBDIVISION, WELLINGTON FOREST, RIDGEFIELD - PHASE
5A AND 5B, AND A MISCELLANEOUS STREET**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept certain streets in Arrington, Landon Farms, Phase 1B, Pagemore, Glennstone, Camberley Subdivision, Wellington Forest, Ridgefield, Phase 5A and 5B, and a Miscellaneous Street, as listed, for maintenance by the City of Durham was approved at 7:48 p.m. by the

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following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

ARRINGTON

Arrington Park Drive – from the east curb line of Page Road south then east to the end of construction @ STA 27+45.52 (1,731’); and

Langdon Drive – from the south ditch line of Comstock Road south to the end of construction @ STA 27+15.05 (1,695’).

LANDON FARMS – PHASE IB

Landon Farms Lane – from the east curb line of Geer Street east to the centerline of Great Bend Drive (532’); and

Great Bend Drive – from the centerline of Spring Creek Drive north to the end of construction @ STA 5+74.07 (474’); and

Spring Creek Drive – from the centerline of Great Bend Drive west thru the cul-de-sac (459’); and

Spring Creek Drive – from the centerline of Great Bend Drive east to the end of construction @ STA 6+31.53 (110’).

PAGEMORE

Appling Way – from the west curb line of Page Road west to the existing pavement @ STA 14+24.16 (1,414’); and

Pagemore Court – from the centerline of Appling Way north thru the cul-de-sac (148’).

GLENNSTONE

Glennstone Drive – from the west curb line of Glenn Road west to the end of Phase I construction @ 25+12.11 (1,497’); and

Amber Stone Way – from the centerline of Glennstone Drive north thru the cul-de-sac (740’); and

Amber Stone Way – from the centerline of Glennstone Drive south to the end of Phase I construction @ STA 21+57.00 (90’); and

Amber Stone Way – from the centerline of Glennstone Drive south to the end of Phase I construction @ STA 11+04.05 (105’); and

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Little Valley Court – from the centerline of Glennstone Road south thru the cul-de-sac (227’); and

Lady Slipper Way – from the centerline of Glennstone Drive north thru the cul-de-sac (223’); and

Chimney Stone Road – from the centerline of Glennstone Drive north to the end of Phase I construction @ STA 10+96.33 (96’).

CAMBERLEY SUBDIVISION

Grouse Court – from the west curb line of Davie Drive west thru the cul-de-sac (978’).

WELLINGTON FOREST

Basil Drive – from the beginning of Phase III construction @ STA 5+40 north thru the cul-de-sac (403’); and

Hardwick Drive – from the end of Phase IB construction northwest thru the cul-de-sac (938’); and

Oxboro Circle – from the centerline of Hardwick Drive south thru the cul-de-sac (227’); and

Oxboro Circle – from the centerline of Hardwick Drive north thru the cul-de-sac (385’).

RIDGEFIELD – PHASE 5A & 5B

Pebblestone Drive – from the west ditch line of Fletchers Chapel Road west to the end of PH 5A construction @ STA 60+37 (855’); and

Bowler Drive – from the west ditch line of Fletchers Chapel Road west to the end of PH 5B construction @ STA 14+43 (915’); and

Cove Hollow Drive – from the centerline of Bowler Drive north thru the cul-de-sac (751’); and

Clearfield Drive – from the centerline of Bowler Drive north thru the cul-de-sac (727’).

MISCELLANEOUS STREET

Jones Park Drive – from the north curb line of E. Club Boulevard north to the end of construction @ STA 3+84.75 (370’).

SUBJECT: AUTHORIZATION TO TRANSFER OWNERSHIP OF CANINES

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution authorizing the Chief of Police to transfer ownership of police canines no longer useful or necessary for law enforcement purposes was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9027

SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS FOR A GREENWAY EASEMENT ACROSS THE PROPERTY OF WOODCROFT COMMUNITY ASSOCIATION, INC. FOR THE THIRD FORK CREEK TRAIL

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that it is necessary, in the public interest, and for the public use and benefit to begin eminent domain proceedings for a greenway easement containing approximately 4,242 square feet across property of Woodcroft Community Association, Inc., PIN 0719-03-30-2661, Tax Map 426-02-004C; and

To authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$1.00, as the City's estimate of just compensation was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: FAYETTEVILLE ROAD WIDENING - CIRCLE K, INC.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to acquire a fee simple right of way of 4,991 square feet from Circle K, Inc., Tax Map 522-02-004D and compensate Circle K, Inc. in the amount of \$78,031 for the value of the property and the reduction to the value of the remaining property was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: AMENDMENT TO THE TRANSPORTATION PLANNING GRANT PROJECT ORDINANCE 12820 FOR FY 2003-2004

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the "City of Durham and North Carolina Department of Transportation -Section 104(f) and Section 133(b)(3)(7) Transportation Planning Grant Project Ordinance - FY 2003-2004, Superceding Grant Project Ordinance 12820" was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members

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Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12853

SUBJECT: AGREEMENT FOR DISBURSEMENT AND ACCOUNTING OF FUNDS TO SUPPORT THE DEVELOPMENT OF THE TRIANGLE REGIONAL TRAVEL DEMAND MODEL- NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the resolution authorizing the City Manager to enter into a Municipal Agreement with NC-DOT in order to disburse funds budgeted for the development of the Triangle Regional Travel Demand Model was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9028

SUBJECT: DOWNTOWN SPECIAL EVENTS STRATEGIC PLAN

To receive a presentation on the Downtown Special Events Strategic Plan.

Note: This item was moved to the August 21, 2003 Work Session.

SUBJECT: NEW FEDERAL AND STATE LEGISLATION

To receive a presentation on the New Federal and State Legislation "The Help America Vote Act."

Note: A presentation was received at the August 7, 2003 Work Session.

SUBJECT: DEBORAH & MARIAN BELK

To receive comments from Deborah and Marian Belk on Fair Housing Discrimination and Housing Related Hate Activity in the City of Durham.

Note: Comments were received at the August 7, 2003 Work Session.

SUBJECT: ROBERT NASH

To receive comments from Robert Nash on restoring the old Fire Substation #3 on North Driver Street.

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Note: *This item was moved to the August 21, 2003 Work Session.*

SUBJECT: REVISION OF THE CITY OF DURHAM JOB INCENTIVE POLICY

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution revising the job creation incentive policy for the City of Durham's Community Development Areas to include job retention incentives was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9029

SUBJECT: PROPOSED CERTIFICATES OF PARTICIPATION (COPS) REIMBURSEMENT DECLARATION FOR THE CAROLINA THEATER PROJECT (FLETCHER HALL)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the reimbursement resolution that will allow the City to be reimbursed for its expenses after the financing is obtained was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9031

SUBJECT: PHOENIX CROSSING LOAN REFINANCING PROPOSAL

To receive a report on the Phoenix Crossing Loan Refinancing Proposal and to direct staff on how to proceed with the proposal.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to remove this item from the agenda was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: EMERGENCY REPAIR – 1004 BERKLEY STREET

To authorize the City Manager to enter into a contract for emergency repairs in an amount not to exceed \$4,999 for the repair of 1004 Berkley Street, providing resident meets all income requirements; and

To waive the City Manager's advertising requirements regarding purchase services.

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Note: *This item was approved at the August 7, 2003 City Council Work Session with a vote of 6/0.*

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: MAJOR SITE PLAN -- EMBASSY SUITES, RENAISSANCE CENTER AT SOUTHPOINT (D03-116)

Planning Director Frank Duke made comments on this item.

The following citizens spoke in support of this item: Leigh Potts and Gene Singleton.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to approve a site plan for a six-story, 129,293 square foot hotel, including 180 guest rooms and a 124 seat restaurant, with 184 motor vehicle parking spaces and 11 bicycle spaces, on a +3.80 acre portion of a +/-52.7 acre site zoned MU(D), MTC and F/J-B, and with buffer reductions from 50 feet to five feet due to changes in zoning of the adjacent tracts was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT

Victoria Peterson expressed a concern with grant funds noting we do not have a picture in this community how to address gang and youth crime.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to accept the Juvenile Accountability Incentive Block Grant, in the amount of \$12,463 for the purpose of purchasing equipment and providing training for Youth Investigators; and

To authorize the use of Controlled Substance Abuse funds in the amount of \$1,385 to be used for the required local match; and

To adopt the "City of Durham North Carolina and the Department of Crime Control and Public Safety/Governors Crime Commission Juvenile Accountability Incentive Block Grant Project Ordinance" was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12852

SUBJECT: CITIZEN'S COMPLAINT - #J-142, SYLVESTER G. BROOKS

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To receive a report on Citizen's Complaint - # J-142, Sylvester G. Brooks, 1108 South Roxboro Street.

Betty Pittard, of the Real Estate Department, noted staff found a way to drain the water from Mr. Brooks' property and the cost will increase \$800 from \$2,500 to \$3,300 if a well is found on the property. She noted staff recommends giving funds to Mr. Brooks by having a contract drawn up for him to complete the work and the City not have any responsibility for it.

Sylvester Brooks made comments on the well and drainage problem as a result of the City moving his house in the 1980s.

Council Member Cole-McFadden asked staff to assist Mr. Brooks with the application to see if he is eligible for the emergency repair program.

Council Member Stith made comments on the funding source and contract.

City Attorney Blinder briefed Council on the liability issue.

Mayor Bell asked the City Manager to resolve this issue and come back with a recommendation at the August 21, 2003 City Council Work Session.

Note: Council took no vote on this item.

SUBJECT: CAROLINA THEATER CONSTRUCTION PROCEDURES

Victoria Peterson raised a concern with this item.

To adopt a Resolution to Exempt the Carolina Theatre Repairs from G. S. 143-64.31; and

To authorize the City Manager to enter into an agreement with a construction contractor to perform work related to repairs needed in the stage house area of Fletcher Hall in an amount not to exceed \$200,000, selected and agreed to by the Department of General Services and the Carolina Theatre of Durham in compliance with the informal bidding requirements in North Carolina State law; and

To waive the internal policy as related to the advertising requirement for construction of the project.

Note: *This item was approved at the August 7, 2003 Work Session with a vote of 6/0 – Resolution #9025*

[GENERAL BUSINESS AGENDA]

SUBJECT: PROFESSIONAL SERVICES FOR DEPARTMENT OF PARKS AND RECREATION PROGRAM EVALUATION

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Victoria Peterson expressed a concern with this item.

To authorize the City Manager to execute a contract with GreenPlay, LLC for \$46,450 to provide a professional evaluation of the programming of the Department of Parks and Recreation; and

To authorize the City Manager to modify the contract provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: By a vote of 6/0, the City Council approved postponing this item as part of the City Manager's priority item.

SUBJECT: SALES AND SOLICITATION ORDINANCE

To receive a report on the Sales and Solicitation Ordinance.

Mayor Pro Tempore Cheek requested that this item be referred to the August 21, 2003 City Council Work Session due to new information provided [proposed ordinance] by *The Herald-Sun* newspaper.

Ron Muhammad spoke in opposition to having an ordinance that stops independent newspapers from providing information on the street corners.

Ernie Mills made comments concerning the hard working newspaper sellers and the issue of panhandlers being a public nuisance.

MOTION by Council Member Clement seconded by Council Member Stith to refer this matter to the August 21, 2003 City Council Work Session was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: ORDERING PETITIONED IMPROVEMENT - SIDEWALK ON OBIE DRIVE

To receive public comments; and

To adopt a resolution ordering Sidewalk on Obie Drive (Both Sides) from Barbee Road to Fayetteville Road.

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Due to an objection, Lee Murphy, of the Public Works Department, requested the public hearing be continued without further advertising to the September 2, 2003 City Council Meeting.

Mayor Bell opened the public hearing.

Norman Richardson, of 321 Obie Drive, spoke in opposition to improvement raising a concern with the late notification of this issue and the economic burden it will cause during this time.

Lee Murphy, of the Public Works Department, made comments on the petition received for this request.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to continue the public hearing without further advertising to the September 2, 2003 City Council Meeting was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: ORDERING PETITIONED IMPROVEMENTS - CURB, GUTTER AND PAVING AND WATER AND SEWER LATERALS ON OBIE DRIVE

To receive public comments; and

To adopt a resolution ordering Curb, Gutter and Paving and Water and Sewer Laterals on Obie Drive from Barbee Road to Fayetteville Road.

Mayor Bell opened the public hearing.

Due to an objection, Lee Murphy, of the Public Works Department, requested the public hearing be continued without further advertising to the September 2, 2003 City Council Meeting.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to continue the public hearing without further advertising to the September 2, 2003 City Council Meeting was approved at 8:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: EXTENSION OF 1996 REFERENDUM AUTHORITY

Finance Director Ken Pennoyer made comments on this item.

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As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments; and

To extend the maximum time period for issuing bonds under orders authorizing \$35,245,000 Street Bonds, \$20,375,000 Park and Recreational Facility Bonds, \$20,000,000 Housing Bonds and \$5,165,000 Public Transportation Bonds, which took effect on November 5, 1996, should be extended from seven years to 10 years after such date was approved at 8:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-55 – BELVINS PROPERTY, HEBRON AND DANUBE - THE JOHN R. MCADAMS COMPANY, INC. – SOUTHEAST AND SOUTHWEST CORNERS OF THE INTERSECTION OF HEBRON ROAD AND DANUBE LANE

To conduct a public hearing and receive public comments on rezoning Case P02-55 (Belvins Property), and

To continue the hearing until September 15, 2003.

Planning Department Recommendations: Approval
Zoning Committee Recommendation and Vote: Denial (5-1)

[Valid protest petition filed against this rezoning]

Planning Director Frank Duke noted applicant has been working with neighbors in an effort to resolve issues associated with protest petition and is requesting that this item be continued for two cycles. He noted in order for staff to complete its review of information, staff is requesting that the public hearing be continued without further advertising to the October 6, 2003 City Council Meeting.

Mayor Bell opened the public hearing.

Opponent

LaVonnia Allison spoke in opposition to this item urging Council to deny this request due to school impacts, buffer, density, environmental, traffic and mass grading issues.

Proponent

Attorney Jack Markham, representing the applicant, spoke in support of this rezoning case commenting on neighborhood meetings held. He noted at the end of July, notices

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were sent out wherein a revised development plan highlighted that the applicant reduced density, agreed to make all required/recommended DOT improvements, removed one of the street crossings over the creek and placed a site for a potential day care facility. Attorney Markham requested a deferral to continue to work on a resolution.

Opponent

Kasandra White, of 807 Melanie Street, noted she did not receive any notification and expressed a concern with the density of this proposal.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to continue the public hearing without further advertising to the October 6, 2003 City Council Meeting was approved at 8:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-82– LATTA SPRINGS (AAC REAL ESTATE SERVICES, INC./HADEN STANZIALE – SOUTHEAST CORNER OF LATTA ROAD AND GUESS ROAD)

To receive public comments on rezoning Case P02-82 (Latta Springs); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-82 out of R-20 and placing same in and establishing same as SC (D).

Note: *This item has been withdrawn.*

SUBJECT: REZONING MATTER CASE P03-23 – STRAWBERRY FIELDS – RICK WILLIAMS, WILLIAMS CONSTRUCTION COMPANY/WILLWOOD, LLC – HOPE VALLEY ROAD AND SOUTH OF ROXBORO STREET

To receive public comments on rezoning Case P03-23 (Strawberry Fields); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning case P03-23 out of R-10 and R-20 and placing same in and establishing same as RM-8(D).

Planning Department Recommendation: Approval
Zoning Committee Recommendation and Vote: Denial (4-2)

[Valid protest petition was withdrawn]

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Planning Director Frank Duke briefed Council on the staff report noting the public hearing was continued from the June 17, 2003 Special City Council Meeting. He noted the proposal is consistent with the Southwest Durham and NC54/I-40 Corridor Plans, outlined changes made to the development plan [reduction of units and additional committed elements]; and noted staff is recommending approval.

Mayor Bell opened the public hearing.

Proponents

Attorney Jack Markham, representing the applicant, spoke in support of this rezoning. He noted the agreement between Chownings Place and the applicant provides for a reduction in density, the creation/maintenance of buffer and buffer easement for Strawberry Fields and Chownings Place and the fence replacement.

Kate Krayner, representing Chownings Place HOA, outlined the reason why the protest petition was withdrawn commenting on the agreement with the developer relative to the new committed elements in the revised site plan.

Mayor Bell made comments on the storm water pond and buffer easement.

Attorney Jack Markham noted the developer would be placing a storm water pond or some other storm water control device in that location as a committed element. Attorney Markham also made comments on the signed private buffer easement between parties.

Planning Director Frank Duke recommended that the language be changed on the development plan before it's recorded to refer to a storm water control facility rather than a storm water pond.

No one spoke in opposition to this rezoning request.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on rezoning Case P03-23 (Strawberry Fields); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning case P03-23 out of R-10 and R-20 and placing same in and establishing same as RM-

8(D) was approved at 9:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: ZONING TEXT AMENDMENT - AMORTIZATION OF
NONCONFORMING JUNKYARDS AND VEHICLE REPAIR
SHOPS (TC 03-9)**

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To receive public comments on Zoning Text Amendment TC 03-9 (Amortization of Nonconforming Junkyards and Vehicle Repair Shops); and

To adopt an ordinance amending the Zoning Ordinance to incorporate the changes proposed by TC 03-9.

Planning Department Recommendation - Approval
Zoning Committee Recommendation and Vote - Approval (7-0)

Planning Director Frank Duke briefed Council on the text amendment.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to receive public comments on Zoning Text Amendment TC 03-9 (Amortization of Nonconforming Junkyards and Vehicle Repair Shops); and

To adopt an ordinance amending the Zoning Ordinance to incorporate the changes proposed by TC 03-9 was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12854

**SUBJECT: EMPLOYMENT AND PUBLIC ACCOMMODATIONS
ORDINANCE**

To receive public comments on the suspension of the City of Durham's Employment and Public Accommodations Ordinance.

Note: This item was removed from the agenda. The City Council held a special meeting on August 18, 2003 at 6:00 p.m. to receive public comments on the suspension of the City of Durham's Employment and Public Accommodations Ordinance.

There being no further business to come before the City Council, the meeting was adjourned at 9:10 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk